

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

DEBORAH K. CHASANOW
UNITED STATES DISTRICT JUDGE

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April 24, 2000

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RE: Derrickson, et al. v. Circuit City Stores, Inc.
Civil Action No. 95-3296 ✓

Jones v. Circuit City Stores, Inc.
Civil Action No. 97-4174

Dear Counsel:

The court is in receipt of the parties' recent pretrial motions: Plaintiff Jones's Motion to Consolidate and Request for a Scheduling Order; *Derrickson* Plaintiffs' "Statement Regarding Suggested Trial Management Scheme"; and Defendant's Motion to Sever for Purposes of Trial. Pursuant to Local Rule 105.6, the court now rules without a hearing.

With respect to the *Jones* case, the court denies the motion to consolidate. While the court understands Plaintiff's desire to expedite the resolution of these matters, the *Jones* case is still too far behind the schedule of the *Derrickson* cases to now consider consolidation. Even an ambitious scheduling order would

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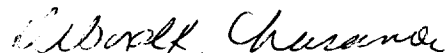
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not allow the parties and the court adequate time to submit and resolve dispositive motions and prepare for a trial in late July. Moreover, before resolving any summary judgment motions, the court cannot determine whether common questions of law or fact would compel a consolidated trial. See Fed. R. Civ. P. 42(a). The court will issue today an amended scheduling order, setting deadlines for service of requests for admissions and dispositive pretrial motions.

Turning to the *Derrickson* cases, Defendant has moved for five separate trials pursuant to Fed. R. Civ. P. 20(b) or 42(b); Plaintiffs have moved for consolidation for trial pursuant to Rule 42(a). After reviewing the parties' submissions, the court concludes that the five cases are best addressed in two trials, one for the promotional claims of Plaintiffs Derrickson, Ibrahim, Moore, and Sims and one for the demotion claim of Plaintiff James. The court has broad discretion to decide how cases are to be tried. *Person v. Miller*, 854 F.2d 656, 665 (4th Cir. 1988). The common issues of both law and fact make a consolidated trial on failure to promote the four plaintiffs prudent. A single jury will hear the expert testimony concerning promotional practices at Circuit City and learn the applicable law. The court does not doubt that a jury can distinguish the four individual employment histories and make separate findings with respect to each plaintiff. See *Duke v. Uniroyal, Inc.*, 928 F.2d 1413, 1421 (4th Cir. 1991). Furthermore, any prejudice from trying these four cases together can be remedied by a jury instruction. See *id.* Additionally, the court still believes that trial of Plaintiff James' demotion claim is best tried separately. For the foregoing reasons, the court denies in part and grants in part both Defendant's motion to sever and Plaintiffs' motion to consolidate.¹

Despite the informal nature of this letter, it constitutes an Order of Court and the Clerk is instructed to docket it as such.

Very truly yours,



DEBORAH K. CHASANOW
United States District Judge

¹ As the scheduled date for trial approaches, the court may need to revisit the issue of severance if the court's criminal docket shortens the time available for trial of these cases.